for, or charged therewith, may be shown as a circumstance tending to indicate guilt. But this is a mere inference which the jury may draw, and not evidence upon which the accused may be convicted upon proof of the *corpus delicti*. In such case, the court may instruct that such fact may be "presumptive evidence of guilt," and if unexplained, the jury would be justified in considering such flight "evidence of guilt." *Starr* v. *United States*, 164 U. S. 627; *State* v. *Poe, supra*. This inference is based upon the ground that flight is conscious evidence of guilt. The presumption is, that one who is accused wrongfully will rely on his consciousness of innocence, while one who is guilty will resort to flight to escape punishment. *State* v. *Poe, supra*. On the same principle it is held that evidence tending to show that the defendant attempted to bribe a juror is competent evidence against him and raises an inference of guilt, if unexplained. *Turpin* v. *Commonwealth*, 140 Ky. 294, 130 S. W. 1086. Where the prisoner flees after trial, it is evidence of guilt, though not conclusive. *Murrel* v. *State*, 46 Ala. 89, 7 Am. Rep. 592.

Leaving the vicinity where the crime was committed does not necessarily constitute flight. In order that the defendant's departure be used against him it must be unexplained. Thus where the defendant fled from a mob, it was held not to be such flight as would create an inference of guilt. *Smith* v. *State*, 106 Ga. 673, 32 S. E. 851. Or that he fled on the advice of friends for fear of personal violence. *State* v. *Phillips*, 34 Mo. 475. The mere fact that the defendant is arrested in another state is not sufficient to raise an inference of guilt from flight, for this does not necessarily mean that he fled there to escape justice. *State* v. *Evans*, 138 Mo. 116, 39 S. W. 462.

When flight or departure from the vicinity where the crime was committed is proved, the defendant may introduce evidence to explain his departure and show that his leaving the vicinity was consistent with his innocence. This explanation negatives the presumption of conscious guilt, and also the inference of guilt drawn from flight. *Peacock* v. *State*, 50 N. J. L. 653, 14 Atl. 893; *Smith v. State, supra*.

Flight of the accused is a presumption of fact, not of law, and is merely a circumstance to be considered by the jury as tending to increase the probability of the guilt of the accused. Hence, an instruction by the court that the facts do, or do not constitute flight is reversible error. *Hickory* v. *United States*, 160 U. S. 408. But an instruction which leaves the fact of flight to the jury and instructs as to the effect of flight is not an invasion of the province of the jury. *State* v. *Lem Woon*, 57 Ore. 482, 107 Pac. 974.

While it is well settled upon authority that an instruction drawn, as in the principal case above, is erroneous, it would seem on principle that these holdings are too technical. The substantive law is, that flight is a circumstance from which the jury may draw an inference of guilt. Hence, on principle the court should be allowed to instruct the jury that flight is a circumstance which the jury might consider in connection with the guilt of the accused.

HUSBAND AND WIFE—TORTS OF WIFE—LIABILITY OF HUSBAND UNDER MODERN STATUTES.—W. wife of H., alienated the affections of X., a mar-

ried man. There was a state statute which, in effect, gave the wife the management and ownership of her property free from all restraint of the husband. A suit was brought against husband and wife jointly for the tort, under the common law fiction of unity. *Held*, the husband is not liable. *Claxton* v. *Poole* (Mo.), 197 S. W. 349.

By the old common law, the husband alone was liable for the torts of the wife committed by his direction and in his presence. This was based on the theory of coercion. *McKeown* v. *Johnson*, 1 McCord (S. C.) 578; *Commonwealth* v. *Neal*, 10 Mass. 152, 6 Am. Dec. 105. If this presumption of coercion was successfully rebutted, he became jointly liable by the fiction of identity. *Edwards* v. *Wessinger*, 65 S. C. 161, 43 S. E. 518, 95 Am. St. Rep. 789; *Cassin* v. *Delaney*, 38 N. Y. 178. This fiction of identity necessitated the joining of husband and wife in an action of tort, even where the tort was committed out of his presence. *Ball* v. *Bennett*, 21 Ind. 427.

Now in most states, statutes have been enacted which effectually emancipate the wife, both as to person and property, from her common law disabilities. These statutes, as a rule, give the wife complete ownership and management of her property and do away with the worn-out fiction of identity of person. *Kellar* v. *James*, 63 W. Va. 139, 59 S. E. 939, 14 L. R. A. (N. S.) 1003; *Taylor* v. *Pullen*, 152 Mo. 434, 53 S. W. 1086. Under these Married Women's Acts we find much conflict in the holdings of the courts in regard to the husband's liability for the wife's torts. One line of cases clings to the old common law doctrine of liability, on the ground that the Married Women's Acts, being in derogation of the common law, must be strictly construed, and unless expressly so enacted, the common law should not be further relaxed to release the husband from liability for the wife's torts. *Henley* v. *Wilson*, 137 Cal. 273, 70 Pac. 21, 58 L. R. A. 941; *Holtz* v. *Dick*, 42 Ohio St. 23, 51 Am. Rep. 791; *Kellar* v. *James*, *supra*.

Other courts draw a distinction between those torts of the wife which are committed in connection with her separate estate and her personal torts, which have no relation to her separate estate. Where the wife is given the sole ownership and management of her separate estate, the husband is not liable for her torts committed in connection therewith. *Quilty* v. *Battie*, 135 N. Y. 201, 32 N. E. 47, 17 L. R. A. 521; *Rome* v. *Smith*, 45 N. Y. 230. Where the husband was acting as the wife's agent in connection with her separate estate, the wife alone was held liable for his tort. *Shane* v. *Lyons*, 172 Mass. 199, 51 N. E. 976, 70 Am. St. Rep. 261; *Baum* v. *Mullen*, 47 N. Y. 577. But these courts hold the husband liable for the wife's personal torts which are not connected with her separate estate, notwithstanding the statutes affecting the wife's property. *Maugham* v. *Peck*, 111 N. Y. 401, 18 N. E. 617; *Atwood* v. *Higgins*, 76 Me. 423.

A third line of cases, in agreement with *Claxton* v. *Poole*, *supra*, has gone the length of declaring that the husband's liability for any and all of the wife's tort is destroyed by the Married Women's Acts, giving the wife control over her property and the proceeds of her labor. The ground on which the husband's libaility for the wife's tort is abrogated is that these statutes emancipating married women have abol-

ished the old fiction of identity and coercion, on which is based the rule making the husband liable for the wife's tort. The reason for the rule having ceased, the rule should vanish automatically without the necessity of a statute expressly abolishing liability in these cases. *Schuler* v. *Henry,* 42 Colo. 367, 94 Pac. 360, 14 L. R. A. (N. S.) 1009; *Martin* v. *Robson,* 65 Ill. 129, 16 Am. Rep. 578.

INJUNCTION—BREACH OF TRUST—DISCLOSURE OF TRADE SECRETS.—The plaintiffs were in a business, in which they, as sole owners, manufactured goods by a secret process. Two of the defendants were employed by, and had learned the trade secret of the plaintiffs. These employees, together with the other defendants, formed a company in competition with the plaintiffs, using the secret process of manufacture. At the date of judgment in this case the trade secret was of no practical value. The plaintiffs brought an action for damages and to enjoin the use of their trade secret by the defendant. *Held,* the defendants are entitled to damages, but that no injunction is necessary. *Aronson* v. *Orlov* (Mass.), 116 N. E. 951.

Two early English cases held that no injunction would lie for the use of a trade secret by one who had received the secret from the discoverer and had disclosed the secret in breach of contract with, or confidence toward the discoverer. *Newberry* v. *James,* 2 Mer. 446; *Williams* v. *Williams,* 3 Mer. 157. But in a later case, where the defendant, an employee of the plaintiff, learned the secret by fraud and without the knowledge of the plaintiff, so that a disclosure amounted to a breach of trust, an injunction was allowed. *Yovatt* v. *Winyard,* 1 J. & W. 393.

It is well settled now, both in England and America that a secret process of manufacture, whether the subject of a patent or not, is so far the property of the inventor or discoverer, that equity will enjoin one who, in violation of contract or by any breach of trust, seeks to use it in his own behalf or to disclose it to a third person. *Peabody* v. *Norfolk,* 98 Mass. 452, 96 Am. Dec. 664; *Morrison* v. *Moat,* 9 Hare 241; *Vulcan Detinning Co.* v. *American Can Co.,* 72 N. J. Eq. 387, 67 Atl. 339, 12 L. R. A. (N. S.) 102. And see note 3 VA. LAW REG. 535.

However, equity will not enjoin one partner from the use of partnership trade secrets, where the partnership has been dissolved. *Baldwin* v. *Von Micheroux,* 5 Misc. 386, 145 N. Y. Supp. 772. And where the plaintiff had gone out of business, no injunction was allowed against one who used the trade secrets of the company as the plaintiff's successor. *Shonk Tin Printing Co.* v. *Shonk,* 138 Ill. 34, 27 N. E. 529.

If one person discloses a secret system to another in a letter seeking employment, equity will not enjoin its use by the one who has thus learned the secret. *Bristol* v. *Equitable Life Assn. Co.,* 132 N. Y. 264, 28 Am. St. Rep. 568. Where the discoverer of a secret which is not patented sells the secret to two honest purchasers at different times, the first buyer cannot enjoin the second buyer, since the second buyer has learned the secret without any fraud or breach of trust. *Stewart* v. *Hook,* 118 Ga. 445, 45 S. E. 369, 63 L. R. A. 255; *Chadwick* v. *Covell,* 151 Mass. 190, 23 N. E. 1069, 21 Am. St. Rep. 442, 6 L. R A. 839. But